

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the application of	)	
<b>CONSUMERS ENERGY COMPANY</b> for	)	
approval of a power supply cost recovery plan and	)	Case No. U-18142
for approval of monthly power supply cost recovery	)	
factors for the year 2017.	)	
<hr/>	)	

At the February 5, 2018 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman  
Hon. Norman J. Saari, Commissioner  
Hon. Rachael A. Eubanks, Commissioner

**ORDER**

**History of Proceedings**

On September 30, 2016, pursuant to 1982 PA 304, MCL 460.6j *et seq.*, Consumers Energy Company (Consumers) filed an application, with supporting testimony and exhibits, requesting authority to implement a power supply cost recovery (PSCR) plan in its rate schedules for 2017 metered jurisdictional sales of electricity. In its application, Consumers initially requested approval of a uniform monthly maximum PSCR factor of \$0.00124 per kilowatt hour (kWh) for all classes of customers. Consumers also requested approval of its PSCR plan for 2017 and five-year forecast.

A prehearing conference was held on November 30, 2016, before Administrative Law Judge Dennis W. Mack (ALJ). The ALJ granted petitions to intervene filed by Midland Cogeneration Venture Limited Partnership (MCV); the Association of Businesses Advocating Tariff Equity (ABATE); the Residential Customer Group (RCG); the Michigan Department of the Attorney General (Attorney General); Michigan Power Limited Partnership/Ada Cogeneration Limited Partnership (MPLP/Ada); and the Sierra Club/Michigan Environmental Council (SC/MEC). The Commission Staff (Staff) also participated in the proceeding.

On December 20, 2016, the Commission issued an order (December 20 order) directing Consumers to file information regarding the termination of the power purchase agreement (PPA) between Consumers and Entergy Nuclear Palisades, LLC, *et al.* (Entergy) for power sourced from the Palisades Nuclear Power Plant (Palisades) and an updated five-year forecast. On January 19, 2017, Consumers filed its second supplemental testimony and exhibits in response to the December 20 order.

On February 21, 2017, the ALJ entered a protective order in this case. An evidentiary hearing was held on July 19, 2017. On September 8, 2017, SC/MEC; ABATE; RCG; the Attorney General; the Staff; and Consumers filed initial briefs. SC/MEC filed a confidential initial brief under seal on September 11, 2017. On October 10, 2017, SC/MEC; RCG; the Attorney General; and Consumers filed reply briefs.

The ALJ issued a Proposal for Decision (PFD) on November 6, 2017. The PFD included a thorough overview of the record and positions of the parties, which will not be repeated here. See PFD, pp. 1-20. ABATE and RCG filed exceptions to the PFD on November 28, 2017, and Consumers filed replies to the exceptions on December 12, 2017. The record in this case consists of 231 pages of transcript and 86 exhibits admitted into evidence.

## Proposal for Decision

The ALJ recounted the procedural history of the case and the statutory requirements applicable to PSCR proceedings. PFD, pp. 1-6. The ALJ also detailed Consumers' 2017 PSCR plan and five-year forecast, beginning by explaining that, while this proceeding was pending, Consumers announced that it would be terminating its Palisades PPA in 2018, but then later announced that it would not be terminating the PPA until 2022.

As to the PSCR plan, the ALJ explained that Consumers calculated its 2017 PSCR factor of \$0.00124 per kWh based on various components testified to by company witnesses. 2 Tr 97-98; Exhibit A-12. In a supplemental filing, the company decreased its Total Transmission Expense to reflect a reduction in rates of the Michigan Electric Transmission Company. 2 Tr 42-43. This reduction lowered the PSCR factor to \$0.00073 per kWh. 2 Tr 101-102; Exhibit A-26. The PSCR plan also included the company's 2017 Total System Requirements, calculated to be 35,960,750,823 kWh. 2 Tr 49-56; Exhibits A-2 through A-6. Lastly, the ALJ explained how Consumers also seeks approval of purchases of additional capacity to meet its capacity planning reserve margin target for the 2017 Midcontinent Independent System Operator (MISO) planning year. Specifically, the company intends to acquire 225 zonal resource credits (ZRCs) to meet this target. These capacity costs are treated as PSCR costs, but do not change the proposed PSCR factor of \$0.00073 per kWh. 2 Tr 128-129.

The PFD also detailed Consumers' five-year forecast for the 2017-2021 period where electric delivery, generation, and peak demand projections were developed based on several variables including weather, the economy, and demographics. 2 Tr 49. The company provided details regarding its generation resources, including PPAs and purchases from the MISO market, as well as programs that will impact generation requirements such as renewable resources,

energy waste reduction, and demand response management. The forecast included projections for fuel, purchased and net interchange expenses, power purchases, transmission costs, associated market and administrative costs, and costs of emission control for the 2017-2021 period. The company asserted that none of the projected costs in its five-year forecast warrant a Section 7 warning under MCL 460.6j(7).

The ALJ set forth the positions of the parties in the PFD, which, for brevity purposes, will not be repeated here. PFD, pp. 12-20. On November 28, 2017, RCG and ABATE filed exceptions to the PFD. RCG took exception to the ALJ's findings regarding the Palisades PPA and the Zeeland lateral pipeline; ABATE took exception to the ALJ's finding regarding the refund to Consumers arising from the Federal Energy Regulatory Commission (FERC) proceeding, EL15-45-000 (EL15 refund). Consumers filed a reply to the exceptions on December 12, 2017.

The ALJ identified and addressed eight issues unresolved by the parties in this matter: (1) the Palisades PPA; (2) CSX Transportation, Inc. (CSXT) litigation expenses; (3) the transmission cost refunds from the FERC; (4) Consumers' procured coal contracts; (5) the modeling Consumers utilized to calculate unplanned outages; (6) the economic dispatch of generating units; (7) the coal remaining at the Classic 7 coal-fired units; and (8) the Zeeland lateral pipeline. These issues are addressed *ad seriatim*.

## Discussion

### 1. Palisades Power Purchase Agreement

In the PFD, the ALJ addressed the issue of the Palisades PPA.

As noted, while this case was pending[,] the Company announced it was seeking to terminate the Palisades PPA in 2018. In response, the Commission entered an Order directing the Company to, *inter alia*, update its 5-year forecast to

provide an “actual plan” to replace the Palisades PPA’s generation and capacity. December 20, 2016 Order, p. 8. The Company complied with the 2<sup>nd</sup> supplemental testimony filed on January 19, 2017. On September 22, 2017, the Commission entered an order in Case No. U-18250 that authorized the company to issue \$142 million in securitization bonds that would allow it to make a \$136 million payment to Entergy to terminate the PPA. On September 28, 2017, it was announced the facility would not close until 2022, which is when the PPA expires.

In its Reply Brief, which was filed after the September 28 announcement, the RCG notes that the Commission’s September 22, 2017 order in U-18250 remains in effect, and unless and until the Company withdraws that Application[,] the status of the Palisades PPA remains unclear. Based on this uncertainty, the RCG argues the 2017 PSCR Plan and 5-year Forecast are incomplete and this case should be held in abeyance until the situation is clarified. None of the other parties addressed the Palisades PPA in their respective Reply Briefs.

The recent developments reasonably lead to the conclusion the Palisades PPA will remain in effect until 2022. As a result, the elements of the 5-year forecast as it pertains to the Company’s plan to replace the Palisades PPA’s generation and capacity are not ripe for review. Assuming, *arguendo*, the Company still intends to terminate the PPA before it expires in 2022, the PSCR impacts will be addressed in the applicable PSCR Plan and 5-year forecast... Further, it appears the components of the 2017 PSCR Plan concerning replacing the generation and capacity from the Palisades PPA set forth in the Company’s 2<sup>nd</sup> supplemental filing are no longer viable. Concomitantly, the review of the 5-year Forecast as it relates to the Palisades PPA is also apparently no longer necessary given the recent developments.

PFD, pp. 6-7 (footnotes omitted).

RCG takes exception to the ALJ’s finding that the issues relating to the Palisades PPA and the associated securitization request filed by Consumers in Case No. U-18250 are moot. RCG contends that the issues remain ripe for the 2017 PSCR reconciliation and upcoming 2018 PSCR plan and five-year forecast because Consumers has not withdrawn its application in Case No. U-18250 and there is a possibility that Consumers and Entergy could still modify their proposals relating to the PPA. RCG’s exceptions, p. 2. RCG asserts that “it remains to be seen whether [Consumers] undertook some actions relative to its replacement power plan” that could impact

the 2017 PSCR, and that it is “possible that any revised proposal... could impact the 5-year forecast in this case, and the upcoming 2018 PSCR Plan and 5-year forecast.” *Id.*

Consumers replies to RCG’s exception, pointing out that the PFD did not find that the Palisades PPA termination issues are moot in the future, and that the PFD explicitly stated that if Consumers intended to terminate the PPA prior to 2022, the PSCR impacts would be addressed in the applicable PSCR plan year and five-year forecast. Consumers contends that the Commission has already considered and issued an order relating to the Palisades PPA in Case No. U-18250 and that further consideration is not needed in this case.

The Commission finds the ALJ’s recommendation, explained *supra*, well-reasoned and agrees with Consumers’ position that the issues surrounding the Palisades PPA termination do not need to be addressed in the 2017 PSCR plan or five-year forecast. RCG’s contention rests on speculation that Consumers and Entergy could still terminate the PPA before 2022 or that they may have taken some action that could impact the 2017 PSCR or the five-year forecast. As it currently stands, Consumers and Entergy plan to continue the Palisades PPA until 2022 and have acted accordingly. In Case No. U-18382, Consumers withdrew its application for approval of capacity purchase contracts to replace the Palisades PPA capacity. Therefore, the Commission finds issues raised by RCG related to the Palisades PPA moot.

## 2. CSXT Litigation Expenses

Consumers proposed that \$661,284 in litigation expenses incurred during an action filed before the Surface Transportation Board against one of its coal transportation entities, CSXT, be recovered in the company’s 2017 PSCR plan. The Attorney General, SC/MEC, RCG, and the Staff protested the inclusion of litigation expenses citing the Commission’s disallowance of similar litigation expenses in a previous order in Case No. U-17918. Subsequently, in its initial

reply to intervenor testimony, Consumers did not dispute the recommendation to remove the litigation expenses from the PSCR plan.

The ALJ conceded that the company's efforts would result in saving for its customers, but found that the related litigation expenses were too attenuated to be considered PSCR costs. The ALJ opined that the \$661,284 in litigation expenses were better suited for recovery in a general rate case, and recommended that the \$661,284 should be disallowed from the company's 2017 PSCR plan. There were no exceptions filed.

The Commission agrees with the positions of SC/MEC, RCG, the Attorney General, and the Staff, and finds the ALJ's recommendation duly supported and reasonable. The inclusion of \$661,284 in CSXT litigation expenses is not appropriate for a PSCR case. As stated in *In re Application of Detroit Edison Co.*, 483 Mich 993; 764 NW2d 272 (2009):

Electric utilities can recover two types of power supply costs through a PSCR clause: (1) 'booked costs, including transportation costs, reclamation costs, and disposal and reprocessing costs, of fuel burned by the utility for electric generation;' or (2) 'booked costs of purchased and net interchanged power transactions.'

Consumers' litigation costs are too distantly related to the above delineated parameters to be included in a PSCR plan or five-year forecast. The recovery of this type of expense is more suitable in a rate case. The Commission adopts the findings and recommendation of the ALJ. Accordingly, Consumers' PSCR plan is amended by the removal of the \$661,284 in litigation expenses.

### 3. Federal Energy Regulatory Commission Transmission Cost Refunds

ABATE expressed concern that Consumers' process for delivering potential refunds to the company's customers realized from the EL15 refund lacked transparency and timeliness.

ABATE requested that the Commission require the company to make a filing in the U-18142 docket detailing its plan for delivering the EL15 refund to customers. ABATE's initial brief, pp.

2-3. The ALJ dismissed this concern because ABATE did not assert that a similar FERC refund, from FERC Docket No. EL14-12-002 (EL14 refund), for which Consumers utilized the same process, was improperly disbursed. The ALJ recommended that the Commission reject ABATE's proposal because adopting ABATE's suggestion to require Consumers to make a filing regarding details of its EL15 refund process in a separate docket would be ill-advised and unnecessarily time-consuming.

ABATE takes exception to the ALJ's recommendation. ABATE argues that the ALJ misinterpreted its request because the ALJ found it unnecessary to open a separate docket for such a filing. ABATE clarifies in its exception, that a filing regarding the refund should be filed in *this* docket. ABATE's exceptions, pp. 2-3.

In its reply to ABATE, Consumers insists that ABATE has not stated an issue or controversy regarding the potential EL15 refund; therefore, its recommendation is premature and unnecessary. Consumers argues that there was no finding by the Commission that it improperly processed the EL14 refund, so there is no basis to allege that the company would improperly process the EL15 refund. Further, the company asserts that if the refund is issued in 2017, it will appear in the 2017 reconciliation, which will provide adequate transparency into the refund process.

The Commission has addressed the FERC refund issue in DTE Electric Company's (DTE Electric) most recent PSCR plan case, Case No. U-18143. In that case, ABATE raised concerns that the three years that it took DTE Electric to flow back the EL14 refund to its customers was not timely and that the refund process lacked transparency. ABATE's initial brief in Case No. U-18143, pp. 2-5. In its replies to exceptions in that case, ABATE touted Consumers' speedier refund to its customers as grounds to show that DTE Electric could improve its own refund



process. ABATE requested that the Commission order DTE Electric “to make a filing in this docket within 30 days of receipt of any EL15 Refund payments, and set forth the details regarding the plan for delivering the refunds.” December 20, 2017 order in Case No. U-18143, p. 23 (internal citations omitted) (December 20 order). The ALJ agreed with ABATE that DTE Electric’s refund speed and transparency could improve.

In the December 20 order, the Commission agreed with the ALJ and ABATE that DTE Electric could do more to improve the transparency and timeliness of its refund process. The Commission directed DTE Electric, “in any future PSCR plan case where a FERC ordered refund is likely forthcoming within the 12-month plan period, to include information in its application to the Commission indicating how the utility plans to make a timely refund.” December 20 order, p. 26.

In this case, the Commission notes that ABATE has not expressed the same problems with speed and transparency as it did in DTE Electric’s case. In fact, ABATE commended Consumers in DTE Electric’s case and here for its speed in issuing the FERC refund. However, consistent with the cost of service principles that require utilities to do their best to timely repay customers when any refund is owed, and the Commission’s finding that transparency is in the best interest of Consumers’ customers, the Commission agrees with ABATE’s request. Therefore, the Commission declines to adopt the PFD as to this issue. Consumers shall file in this docket its plan to issue the EL15 refund to its customers once the EL15 refund proceeding has concluded. The Commission finds that the additional filing in this docket, not in a separate docket, would not be overly burdensome on the company compared to the benefit to its customers.

#### 4. Consumers' Coal Contracts

The Attorney General argued that Consumers' purchasing strategy for the 6,927,858 tons of coal that it projects to burn in 2017 is flawed because it relies on long-term contracts rather than spot purchases. The Attorney General maintained that the company would save \$25.7 million in 2017 if it procured its entire coal supply on the spot market. Attorney General's initial brief, pp. 1-2. Consumers disagreed, stating that the spot market approach was not feasible for all of its coal supply for several reasons, predominantly because using both spot purchases and long-term contracts minimizes risk from market volatility; ensures a stable supply; and aligns with the nature of coal supply, which generally needs to be arranged months in advance. 2 Tr 64-65, 85-89.

The ALJ agreed with Consumers' explanation for using both long-term contracts and spot purchases for coal supply, and found its coal purchasing strategy reasonable. No exceptions to this recommendation were filed. Finding the ALJ's recommendation to be well-reasoned, the Commission finds Consumers' costs related to 2017 coal contracts to be reasonable and prudent, and are properly included in the 2017 PSCR plan.

#### 5. Modeling of Unplanned Outages

As part of its forecast of monthly generation volumes and fuel costs, Consumers uses PROMOD IV, which includes anticipated random outages simulated by Monte Carlo draws. The company used five Monte Carlo draws to simulate the random outages. 2 Tr 174; Exhibit A-39. The Attorney General testified that five draws were inadequate and that 40 draws would be more appropriate and would result in a savings of \$8.7 million. 2 Tr 226; Exhibit AG-5. Consumers countered by explaining that,

[t]he projected number of thermal unit start-up cycles from PROMOD IV is not an output used in the Company's filing in this case. Projected fuel costs for thermal

unit start-up cycles are subtracted from the PROMOD IV results presented in Exhibit A-39 (STW-4). The calculation of production costs using PROMOD IV results is provided for demonstration purposes in Exhibit A-45 (STW-8). Auxiliary fuel costs associated with thermal unit start-up cycles are included in the Company's [PSCR] Plan, however those expenses are not calculated by [Mr. Chilson in Exhibits A-33 and A-34]. [The Attorney General's] analysis incorrectly assumes that the Company charged customers twice for thermal unit start-up cycles.

\* \* \*

[The Attorney General's] modeling results in nearly identical projected generation, purchases, and net interchange volumes. The purported savings presented in Exhibit AG-5 are a result of fewer projected thermal unit start-up cycles using PROMOD IV. However, the auxiliary fuel costs associated with thermal unit start-up cycles, for which the Company seeks recovery, are not based on PROMOD IV results. The Company explicitly removes those PROMOD IV costs from the expenses from which it requests recovery in this proceeding.

2 Tr 175-176.

The ALJ found that increasing the number of Monte Carlo draws would not significantly impact the PSCR expense and that using five draws, as the company has done in the past, is reasonable. Therefore, the ALJ recommended that the Commission reject the Attorney General's recommendation to reduce the 2017 PSCR plan by \$8.7 million. Having no exceptions filed on this issue and finding the ALJ's recommendation to be duly supported, the Commission finds Consumers' modeling for unplanned outages to be reasonable.

#### 6. Economic Dispatch of Generating Units

The Attorney General argued that Consumers' 2017 PSCR expense should be reduced by \$4.5 million to reflect losses incurred from the company's operation of generation units regardless of the value of energy produced. Consumers rebutted by pointing out that the Attorney General relied on flawed data to calculate the claimed \$4.5 million loss and essentially double-counted company expenses that were included elsewhere in the company's fuel costs.

2 Tr 177; Exhibits A-33 through A-34. Using the proper data instead, Consumers argued, the

revenues from these generating units were projected to exceed fuel costs, resulting in a positive net energy value rather than a loss. 2 Tr 178; Exhibit A-46. The ALJ agreed with Consumers and recommended that the Attorney General's proposed \$4.5 million reduction be rejected. PFD, p. 29. No exceptions on this issue were filed. The Commission finds the ALJ's recommendation to be well-reasoned and adopts the recommendation.

#### 7. Classic 7 Remaining Coal

RCG took issue with Consumers' timing for the treatment of the booked value of coal remaining at the Classic 7 coal-fired plants, Cobb; Whiting; and Weadock. RCG argued that the issue regarding the value of coal left at these plants should be deferred to the company's 2017 reconciliation. RCG's initial brief, pp. 5-7. The company explained that coal left at Weadock, valued at \$963,267, will be used at the Karn plant; the \$218,920 in coal at Whiting was unusable, so its removal and recycling were treated as decommissioning expenses; and the coal at Cobb, valued at \$332,219, was a mix of usable coal transferred to the Campbell plant, and unusable coal treated as a decommissioning expense. Consumers argued that these book adjustments and expenses were incurred in 2016 and should be addressed in the 2016 reconciliation, not the 2017 reconciliation. 2 Tr 91-92.

The ALJ agreed with Consumers. PFD, pp. 29-30. Having no exceptions filed on this issue and finding the ALJ's recommendation to be well-reasoned, the Commission finds that the treatment of the booked value of coal at the Classic 7 plants, Cobb; Whiting; and Weadock, should be addressed in the 2016 PSCR reconciliation.

#### 8. Zeeland Lateral Pipeline

In its initial brief and direct testimony, RCG supported Consumers' purchase of the Zeeland lateral pipeline from Southeastern Michigan Gas Company (SEMCO) and the inclusion of the

associated \$1.7 million expense in the 2017 PSCR plan. RCG explained that the purchase option was preferable over a second option of a five-year contract extension with SEMCO because purchasing the pipeline would result in savings for Consumers' customers. If the purchase was not made, however, RCG argued that the pipeline contract expense should be disallowed from the PSCR plan as unreasonable and imprudent. Accordingly, RCG requested that the Commission issue a Section 7 warning for extending the contract under the forecast. RCG's initial brief, pp. 11-12; 2 Tr 207-209. Consumers agreed with RCG as to the inclusion of the \$1.7 million in the PSCR costs in its initial brief and rebuttal testimony. However, the company further explained that, at the time it filed its 2017 PSCR application, it intended to purchase the pipeline; but at the time of testimony and briefing, the company continued to discuss other options regarding the pipeline with SEMCO. Consumers stated that it disagreed with RCG's cost comparison because RCG failed to account for the costs to operate and maintain the pipeline when analyzing the purchase option. Consumers' initial brief, p. 26; 2 Tr 90-91.

The ALJ did not find adequate support in the record for RCG's request to issue a Section 7 warning in the event the company extended the contract or to disallow the \$1.7 million in pipeline expenses actually set forth in the company's application. The ALJ noted that either the disallowance or the Section 7 warning "is predicated on [RCG]'s analysis that extending the contract another 5 years will cost [sic] \$3.0 million more, on a present value basis, than exercising the right to purchase the pipeline." PFD, p. 30. The ALJ found RCG's analysis to be lacking based on its failure to factor in pipeline operation and maintenance costs that would accompany the purchase. Therefore, the ALJ recommended that the Commission include in the 2017 PSCR plan any expense related to the Zeeland lateral pipeline, either its purchase or contract extension.

RCG takes exception to the ALJ's rejection of its position concerning the significant savings if Consumers had opted to purchase the Zeeland lateral pipeline. RCG argues that the ALJ erred by declaring the pipeline issues moot because it is unclear whether Consumers has purchased the pipeline or not. RCG's exceptions, pp. 3-4. Further, RCG maintains that it duly supported its position that Consumers would realize significant savings if it purchased the pipeline and that the PFD speculated, without any evidence, that operation and maintenance costs must be considered with the purchase option. *Id.*, p. 4. RCG references evidence that it presented in a separate case, Case No. U-16890, which demonstrated that purchasing the pipeline would result in savings to ratepayers. *Id.*

Consumers replies to the exception stating that the ALJ's determination was not based on speculation, but was based on the testimony of a company witness who explained that a meaningful comparison of the two options, extending the contract or purchasing the pipeline, must consider the costs of operating and maintaining the pipeline. Consumers also protests RCG's reference to evidence presented in Case No. U-16890 because the ALJ's recommendation must be based on the evidence proved in this case. Consumers agrees with the ALJ that there was no evidence to support a Section 7 warning. Consumers' reply to exceptions, pp. 3-4.

The ALJ's recommendation focused on RCG's cost comparison of purchasing the pipeline versus extending the contract for the pipeline. The ALJ found that there was insufficient evidence in the record to warrant a Section 7 warning due to RCG's failure to consider the operation and maintenance costs for the pipeline. The ALJ also found, "the record is devoid of any evidence that would require any expenses related to the pipeline, i.e. either for its purchase or the extension of the contract, to be excluded from the 2017 PSCR Plan." PFD, p. 30.

While the Commission agrees with the ALJ that a proper cost comparison of purchasing the pipeline and extending the contract must include consideration of operation and maintenance costs, the Commission finds it improper to adopt the ALJ's findings and recommendations in their entirety with regard to the Zeeland lateral pipeline. The Commission finds it necessary to further elaborate on the potential purchase of the pipeline and its inclusion in a PSCR plan.

In its application, Consumers included \$1.7 million for the purchase of the Zeeland pipeline. It did not additionally include the costs of extending the contract with SEMCO. Subsequently, during testimony and briefing, the company explained that it was still engaged in discussions with SEMCO regarding the purchase or contract extension of the pipeline. At the close of evidence, it remained uncertain whether Consumers would purchase the pipeline or not. The Commission agrees with the ALJ that there is insufficient evidence to disallow the costs of extending the pipeline contract from the PSCR, if that was indeed the option the company had taken.

Consistent with previous decisions in which the Commission rejected arguments that the pipeline contract costs should be disallowed under MCL 460.6j(13)(d)'s capital cost disallowance provision, the Commission finds that the pipeline contract costs in the PSCR plan should be included in this case.

The ALJ noted that the Commission has repeatedly held that these demand charge payments to SEMCO under the Zeeland transportation contract are not capital costs. *See*, July 13, 2012 order in Case No. U-16432, p. 9; December 20, 2012 order in Case No. U-16045-R, p. 5; May 29, 2013 order in Case No. U-16432-R, pp. 5-6. Noting that the Commission has held that the contract does not vest Consumers with any degree of ownership in the pipeline, the ALJ rejected [Michigan Community Action Agency Association] MCAAA's argument that the demand charges for 2012 under the 1999 SEMCO transportation contract are capital costs that do not belong in the PSCR process.

\* \* \*

The Commission... notes again, that the Lateral Agreement provides that SEMCO owns and retains title to the lateral. While the Lateral Agreement does contain a purchase option, Consumers does not own the [Zeeland pipeline] until it chooses that option and purchases it. The Commission does not find that the intervenors have presented evidence showing that either Consumers has purchased the [pipeline] or that the option to extend the agreement another five years was imprudent.

January 23, 2014 order in Case No. U-16890, pp. 8-11 (citation omitted).

The Commission disagrees with the ALJ in this case, that there was insufficient evidence to disallow the costs associated with the purchase of the pipeline. If Consumers had gone through with the purchase, those costs would be disallowed under MCL 460.6j(13)(d). Such capital costs are better suited for recovery in a general rate case. It seems that because it was unclear at the close of the record whether Consumers would purchase the pipeline or extend the contract, the ALJ allowed the \$1.7 million in costs to remain as a placeholder in the PSCR plan. The Commission finds this to be improper. If the decision to purchase the pipeline had been finalized, the costs associated with the pipeline would be disallowed because they are better suited for recovery in a general rate case. Therefore, the purchase costs as a placeholder are likewise disallowed. Had the company substituted the \$1.7 million in purchase costs for the costs associated with extending the contract, which would have been possible to estimate given that the company has renewed its contract previously, the Commission would have permitted those costs to remain. However, it is illogical for the Commission to allow costs it would otherwise disallow to remain as a placeholder in a PSCR plan.

Therefore, the \$1.7 million for the purchase of the Zeeland lateral pipeline is disallowed from Consumers' 2017 PSCR plan. Consumers' ultimate recovery of the costs associated with the Zeeland pipeline, should it opt to extend the contract, will be addressed in its next PSCR reconciliation case.



THEREFORE, IT IS ORDERED that:

A. The power supply cost recovery plan for the calendar year 2017, filed by Consumers Energy Company, is approved, as modified by this order.

B. The factor of \$0.00073 per kilowatt hour is approved.

C. Consumers Energy Company's five-year forecast is accepted.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov) and to the Michigan Department of the Attorney General - Public Service Division at [pungpl@michigan.gov](mailto:pungpl@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

---

Sally A. Talberg, Chairman

---

Norman J. Saari, Commissioner

---

Rachael A. Eubanks, Commissioner

By its action of February 5, 2018.

---

Kavita Kale, Executive Secretary